

**SOCIAL AND FAMILIAL INCLUSION OF CHILDREN AND ADOLESCENTS  
IN ALTERNATIVE CARE: ADVANCES AND CHALLENGES OF PROFESSIONAL  
PRACTICE IN BRAZIL TODAY**

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**Abstract:** This article focuses on the advances and challenges of familial and social inclusion of children and adolescents in residential care in light of the new legal framework for services in Brazil. It also discusses the new framework’s application to professional practices at different levels of management and decision-making in the social protection system in Brazil today. The authors’ experience in creating and conducting training courses for educators and social managers who work directly in social protection programs or in the Justice system provides inputs for an interpretive analysis of family inclusion of children who live away from parental care, seeking to understand the progress and challenges and their applications to residential care services. Taking into consideration the data available in research and publications that provide an overview of the situation, as well as everyday professional practice, we specifically discuss the Individual Care Plan [*Plano Individual de Atendimento*] as a tool for implementing the rights of children and adolescents and for planning processes for their socio-familial inclusion. Individual Care Plans have contributed to improved and shortened stays in residential care according to judicial experts.

**Keywords:** Brazil, residential care, adolescents, children, inclusion

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The main Brazilian legislation for protection of children and adolescents is the *Estatuto da Criança e do Adolescente* [Statute of Children and Adolescents] (ECA)<sup>1</sup>, which came into effect in 1990. It is based on the principles of the United Nations Convention on the Rights of the Child (UNCRC) and other international treaties. It has been an important lever for the reorganization of the structure of care and social policies for children and adolescents, bringing to the public agenda the fulfilment of their needs as guaranteed rights. Movements and proposals aimed at ending child labour, combating domestic and sexual violence, and guaranteeing a life within the family and the community, especially for those with higher social vulnerability, have been putting pressure on governments and the justice system to accelerate changes in order to transform this legislation into actions and objective responses that attend to the needs of children and adolescents.

Among the major violations of the rights of children and adolescents who are in a vulnerable situation in Brazil are the lack of support and security on the part of family and community and the low education level of children and adolescents, which is detrimental to their future social and economic inclusion and negatively impacts their emotional and social development. Many children and adolescents still live in environments in which they are subjected to different forms of domestic and sexual violence and are in a state of material and emotional abandonment. Many are on the streets.

A series of national standards and complementary legislation aimed at creating new structures and services to streamline the processes of inclusion and social protection of this population has been drawn up. Regional ordinances and local regulations derived from the national standards aim to guide and control the deployment and appropriateness of services, activities, and child-care programs; and to avoid violations of rights with the support of the new political-legal paradigm.

Social and familial inclusion has become the heart of the social welfare and protection system<sup>2</sup> in Brazil. We define social and familial integration as the process of a child or adolescent who was separated from parental care returning to live within his or her family and community or with an adoptive family. All efforts and legal measures seek to strengthen biological families in regaining their protective capacity so they can take back the children who have moved away from their family space of affection and protection.

For social and familial integration the extended family is also considered. Grandparents, uncles, aunts, and other relatives assume the protective role in a large number of cases (Fontes, 2008; Bazon, 2000; Araújo & Dias, 2010)<sup>3</sup>. In the cases of children and adolescents whose chances of family reintegration are considered remote, it has been proposed that a gradual transition take place from the institutional model of residential care to the so-called “*repúblicas jovens*” [youth group homes], in which a group of young people are supported in their process of achieving autonomy and social attachment.

Besides the legal, structural, and political changes, tools and procedures are planned to accommodate each unique case, and to expand monitoring and control over actions carried out. One of these tools is the *Plano Individual de Atendimento* [Individual Care Plan] (PIA), which must be prepared by professionals from residential care or shelters and monitored by agents of the justice system: legal practitioners, prosecutors, and judges of Childhood and Youth. The

monitoring is to be carried out through “concentrated hearings”. In this model, the judge of Childhood and Youth coordinates the discussion of each case with the entire network of services involved in the individual plan. The PIAs will facilitate the full protection, restoration, and socio-education of children and adolescents who are in care services, and support the main goal of promoting family reintegration.

We present here a brief inventory of the main legal rules and parameters that guide Brazilian public policies geared towards children and adolescents who live in residential care services and shelters. From the empirical field, we have added information collected in 26 training meetings conducted by the *Núcleo de Estudos da Criança e do Adolescente* [Center for the Study of Children and Adolescents] (NECA) in 2014, which were attended by 1,200 judicial technicians from the State of São Paulo. Data were categorized by content analysis (Rocha & Deusdará, 2005), according to the assumptions of social pedagogy, and with the awareness that in those meetings the methodology was similar to that of action-research (Caliman, 2006). This makes it possible to analyze the socio-familial integration of children and adolescents in the context of secondary research data and national surveys, and also in light of the questions and categories emerging in the discourse of those involved in the services and shelters.

### **Concepts, legal framework, and social policies for social and familial insertion of children and adolescents**

In the 1980s and 1990s, large residential institutions for children, of the type analyzed by Foucault (1987) in his famous book *Discipline and Punish*, were criticized and denounced by many researchers (Fonseca, 1987; Silva, 1997; Altoé, 1993; Guirado, 1986). These studies contributed to social knowledge by discussing the ways that isolation, the impact of mass culture, and the absence of family and community life damage the development of marginalized children and adolescents. These and other references supported the legal changes made in the care system laid out when the ECA came into force in 1990. Other researchers (Pilotti & Rizzini, 1995; Baptista, 2006) in different fields showed the need to end the segregation and subordination of impoverished children. Until this is accomplished, families will continue to be stigmatized and held solely responsible for violations of their children’s rights.

The ethical-political dimension of inclusion (Sawaia, 2001) manifests itself here, indicating the need to deal with the ethical and political suffering derived from situations of exclusion<sup>4</sup>, so that that re-inclusion in the family is not thought of just as a legal mandate, disconnected from the desire of the family to establish links and provide protection. Reintegration with the family must be seen as a real possibility. The difficulty of guiding mothers of children who are in shelters regarding good parental care, when they themselves did not have this positive experience in their childhood, was one of the recurring themes in the discourse of participants in the training meetings. They talked about the emotional toll and human suffering present in the stories of neglect and deprivation, often magnified by violence and humiliation. To deal humanely with such situations requires a greater understanding of human subjectivity than the formal judicial process can muster. Personal contacts are often bureaucratized, which leads to blaming the families, who actually require help as much as their children.

Regarding adoption<sup>5</sup>, inclusion in a new family requires quality interventions consistent with legal requirements and with the best interests of the child or adolescent<sup>6</sup> who, at all times

during the process, should be duly heard and informed about the meaning of entering a new family. The personal history of the child or adolescent must be taken into account<sup>7</sup>.

Moreira et al. (2013) studied how the protective measures prescribed by the ECA unfolded in family systems and found “badly told stories”, in which the absence of complete records on the family situation and the fact that families and children were not heard by qualified personnel led to “hasty decisions for separation or inadequate return to the family of origin” or even “to decisions regarding adoption without the participation of the child, the birth family and the adoptive family”. An untold story, the authors conclude, can lead to a prolongation of the child’s time in institutional care (pp. 70–71).

In recent years, a variety of legal and regulatory instruments have had an impact on the process of family integration of children in residential care<sup>8</sup>. In 2009, the *Conselho Nacional de Justiça* [National Council of Justice] (CNJ) regulated the establishment of a *Cadastro Nacional das Crianças e Adolescentes Acolhidos* [National Register of Children and Adolescents in Care]. In 2013, the CNJ made it mandatory to hold concentrated hearings to review cases of institutional placement (CNJ, 2013). Held biannually for each foster child, the hearing will reassess the individual plan with the child or adolescent, the family, and representatives of the justice system all present. Under these new regulations, which attempt to guarantee the right to a family life for all children and adolescents (Presidência da República, 2009), the decision to take a child or adolescent into alternative residential care services becomes a direct responsibility of the Child and Youth judge.

According to the *Plano Nacional de Proteção, Promoção e Defesa do Direito de Crianças e Adolescentes à Convivência Familiar e Comunitária* [National Plan for the Protection, Promotion, and Preservation of the Rights of Children to Family and Community] (PNCFC), socio-familial support programs are designed to strengthen the family by establishing, in a participatory manner, a work plan or family development plan that values the family’s uniqueness and its ability to find its own solutions for the problems it faces, given professional and institutional support (Presidência da República, 2006). The PNCFC also emphasizes the need to link various basic social policies, in particular those concerned with public health, social assistance, and education.

National surveys and studies on residential care services have been a source of analyses and observations regarding the status and real experience of resident children, service providers, and the professionals who work with them. In a 2003 survey by the *Instituto de Pesquisa Econômica Aplicada* [Institute for Applied Economic Research] (ipea), among the most frequently-cited reasons for child and adolescent residential care were the family’s lack of material resources (24.1% of cases) and abandonment by parents or guardians (18.8%); a smaller number (7%) of the resident children came from an experience of life in the streets. Most of these children had a family (87%) and many maintained bonds with it (58.2%) (Silva, 2003).

In 2008, the *Núcleo de Estudos da Criança e do Adolescente* [Study Center for Children and Adolescents] (NECA) conducted an investigation of tensions in the care placement process and of the relations between those deciding and those executing the special protection services of residential care (one of the forms of alternative care) in the city of São Paulo, with the participation of around 200 professionals (NECA, 2009). The survey revealed a demand for providing services through articulated networks in response to disconnected institutions and a need to work directly with the families, both to prevent the need for institutional care and to

ensure the possibility of family and community reintegration of children and adolescents who had been taken into care.

The *Levantamento Nacional das Crianças e Adolescentes em Serviços de Acolhimento* [National Survey of Children and Adolescents in Residential Care], conducted by the Oswaldo Cruz Foundation (Fiocruz, 2010) and the *Ministério do Desenvolvimento Social e Combate à Fome* [Ministry of Social Development and the Fight against Hunger] (MDS) showed that in 2010 a total of 36,929 children and adolescents were taken into care in 2,624 institutions providing residential care services in 1,157 Brazilian municipalities. Most children and adolescents taken into care had a family and most of them maintained affective bonds with it, even though some had been in the institution for long periods of time. This is a sign of both the low effectiveness of community-oriented social policies aimed at guaranteeing family reintegration and of the true complexity of the cases. A point worth noting is that 96.5% of the services were *acolhimento institucional* [institutional residential care] and only 3.5% were *família acolhedora* [foster care]<sup>9</sup>, most of which has been implemented in the last six years (Fiocruz, 2010).

It is worth noting that there is no research on the reasons why there are so few foster care initiatives, but some researchers point to the culture of caring for children within the extended family (Sarti, 1996) and the temporary circulation of children among relatives (Fonseca, 2004) as possible reasons. Martins et al. (2010) add that the support of the extended family “requires less professional effort and economic spending from public authorities” than a program such as foster families; moreover, it keeps children in their cultural and social context. Fonseca (2004) also notes that in Brazilian legislation there is no focus on foster family placement, but a priority is placed on the birth family.

Despite the explanations and testimonies in surveys about the use of foster families, there are still many difficulties in understanding the aim of a service of this nature. Valente (2012) suggests that the lack of debate on this issue shows that there is little information to generate the necessary clarity to differentiate the use of residential care, adoption, circulation of children, informal foster care, or even custody in the extended family or in a significant social network.

In spite of the significant number of institutional care services, both residential care and *casas-lares* [group homes], the debate is still contradictory and the need to seek legitimacy is constant. Siqueira and Dell’Aglío (2006) conducted a review of the literature of recent decades on these institutions and their influence on the development of children and adolescents. The results show both the harms of life in an institution on the development of children and adolescents and that “the institution can be a positive alternative when the family environment is disorganized and chaotic” (p. 71). We have heard testimonies from educators about children who have lived through family conflicts and usually fled and broke the bonds of belonging with close relatives to avoid situations of suffering and rejection from their families (Guará, 2008). This reinforces the ambivalence between the recommendation for lowering the priority of residential care for children and adolescents and the increasing social demands for this type of care.

Children in residential care, in the words of Motta et al. (2006), “need someone who understands the nature of their suffering and is sincerely interested in them”. The loneliness of a life marked by emotional instability and insecurity requires a new pedagogy, such as that proposed by Costa (1987) in his book *Pedagogia da Presença* [Pedagogy of Presence], which has become a reference for social educators in Brazil. Anglin (2002), in his study on residences

for children in Canada, also acknowledged that the response to behavior motivated by pain is an important psychosocial process in care work with children in residential care. The discourse of children and adolescents about their own experience in host institutions highlights the importance of recovering the validity of residential care institutions as places “of possibilities, refuge, affection and protection” (Arpini, 2003, p. 70).

Despite much research, little is yet known “about the plurality of the ways of life, the trajectories, the dynamics and structure of the bonds and the family networks of those who have their children placed in residential care”, according to Vitale (2006, p. 70). A number of different training and institutional intervention projects (NECA, 2012) aimed at practitioners and social agents have revealed an absence of unity regarding the scope and responsibilities of those who work with families towards the recovery of their protective capacity, and an excess of competing solutions and approaches. The lack of coordination is an obstacle to effective social and familial integration. A variety of situations and structural conditions must be addressed if childcare services are to be effective in integrating children and adolescents into their original or adoptive families.

In the field of social policy, social welfare as a public social protection policy<sup>10</sup> has been promoting substantial changes in the ways that the expansion of social rights and universal access to the services are facilitated: by setting minimum standards of quality for the services and the social benefits; and by attracting increased State commitment to the system, leading to a greater degree of State provision of goods and social services.

The *Tipificação Nacional dos Serviços Socioassistenciais* [National Grading of Social Assistance Services] (Fiocruz, 2009) defines the structure of basic-, medium-, and high-complexity social protection services (in which are placed institutional or foster care services) and guidelines for work programs with families, as can be seen in the table below.

Table 1

*Social Assistance Services By Complexity Level*

<b>Basic Social Protection</b>	
1.	<i>Serviço de Proteção e Atendimento Integral à Família</i> [Family Protection] (PAIF)
2.	<i>Serviço de Convivência e Fortalecimento de Vínculos</i> [Strengthening Bonds]
3.	<i>Serviço de Proteção Social Básica no Domicílio para Pessoas com Deficiência e Idosas</i> [People with Disabilities and Senior Citizens]
<b>Special Social Protection - Medium Complexity</b>	
1.	<i>Serviço de Proteção e Atendimento Especializado a Famílias e Indivíduos</i> [Individual and Family Protection] (PAEFI)
2.	<i>Serviço Especializado de Abordagem Social</i> [Social Approach]
3.	<i>Serviço de Proteção Social a Adolescentes em Cumprimento de Medida Socioeducativa de Liberdade Assistida (LA) e de Prestação de Serviços à Comunidade</i> (PSC) [Adolescents in Conflict with the Law]

4. <i>Serviço de Proteção Social Especial para Pessoas com Deficiência, Idosos(as) e suas Famílias</i> [People with Disabilities and Senior Citizens]
5. <i>Serviço Especializado para Pessoas em Situação de Rua</i> [Homeless People]
<b>Special Social Protection - High Complexity</b>
1. <i>Serviço de Acolhimento Institucional</i> [Institutional Residential Services]
2. <i>Serviço de Acolhimento em República</i> [Youth Group Home Services]
3. <i>Serviço de Acolhimento em Família Acolhedora</i> [Foster Family Service]
4. <i>Serviço de Proteção em Situações de Calamidades Públicas e de Emergências</i> [Emergencies and Calamities]

Source: National Grading of Social Assistance Services (MDS, 2009).

Legal, political, and administrative changes were added to ethical and judicial demands. Their indicators can be summarized as follows: individualization of care; overcoming the culture of institutionalization and standardization; expediting decisions and referrals regarding the lives of children and adolescents; expansion of possibilities to protect and prevent further abandonments; accountability of those involved in the care and fate of children and adolescents; a belief in the possibility of child and family participation in building present and future life projects; and support for the recovery or maintenance of the protective capacity of the family. Although with some delay, and unevenly in the different Brazilian states, the reorganization of residential and protective services has been guided by these indicators. Nonetheless, there certainly are still major challenges for achieving quality care that is consistent with the needs of children and adolescents and with the variety of situations they experience.

In the early years of this century, many advances were seen in residential institutions (Guará, 2005). They included the adaptation of physical facilities, hiring specially-trained professionals, a reduction in the number of children and adolescents served, a change in the care regime, and the expansion of institutional relations between care programs and services and the Judiciary. However, the changes in the structure of the service were more significant than those in other areas: the qualifications of the professional staff; the development of methodologies for working with families towards strengthening their emotional and protective bonds; and the creation of an effective liaison between the residential institutions and the network of public social programs.

Currently a significant change in the profile (age/gender) of care is under way, which requires an interprofessional team approach and also a public policy of continuing education. In the survey conducted by the *Conselho Nacional do Ministério Público* [National Council of the Public Attorney's Offices] (CNMP) in 2013 regarding age, the age group of children taken into care was wide, with a "greater number of boys and girls between 0 and 15-years old and a higher incidence of boys between 6 and 11-years old and girls between 6 and 11 and 12 and 15-years old" (CNMP, 2013, p. 36). The prosecutors who gathered the data also pointed out that there are many cases of special conditions, namely, "physical, sensory or mental disability, mental patients, drug addicts, children with infectious diseases, homeless, with death threats, and pregnant teenagers or with children" (CNMP, 2013, p. 40).

In cases of abandonment or neglect, as a matter of law, the family concerned is referred to guidance and support services in an attempt to help construct a family environment of affection and belonging for the child. Since there are insufficient programs and care services for families and their complex demands, solving problems takes longer than desirable and institutional care of the child remains a recurring option.

A strategic shift in the application of justice in these cases has consolidated in recent years with the mandatory preparation of Individual Care Plans by the professionals in charge of residential care<sup>11</sup>, and the obligation to hold concentrated hearings by the *Juizados da Infância e Juventude* [Child and Youth Courts] (CNJ, 2013).

The professionals in the judicial teams, who are mostly social workers and psychologists, are responsible for monitoring the development and implementation of the Individual Care Plans of children and adolescents taken into care. The cases are reassessed every six months in concentrated hearings. The Child and Youth judge coordinates discussion of each case with the entire network of services involved to make possible comprehensive protection and education of the child or adolescent, and to promote family reintegration. Children, adolescents, and families are now considered active participants in the hearings so that their perspectives can be taken into account in the Individual Care Plan, making it a better resource for building increasingly self-sufficient life projects.

Whether to place the child or adolescent in an institution or with family is a prerogative of the Judiciary, except in urgent cases, when the decision can be made by the Guardianship Counsellors<sup>12</sup>. Given the temporary nature of the placement, the law imposes a maximum limit of two years, subject to extension if necessary, in order to avoid a long-term placement in the services and to stimulate the rapid reintegration of the child or adolescent with the family. However, the departure of the child or adolescent from the care regime assumes a reasonable prospect of reintegration, which may not exist.

The departure from the care regime is monitored for a period of time to allow the recovery of effective ties and the restoration of protective practices in the family. To aid with successful reintegration, the family is supported and connected with appropriate social networks, so that it is prepared to receive the child back and is able to keep him or her protected.

### **Social and familial integration following the Individual Care Plan: Advances and challenges**

The project *Encontros de Formação – Plano Individual de Atendimento para as Medidas de Proteção* [Training Meetings – Individual Care Plan for Protection Measures] (NECA, 2014), geared to judicial interprofessional teams, aimed to provide technical and legal support for the preparation, monitoring, supervision, and evaluation of the Individual Care Plans of children and adolescents subject to protection measures<sup>13</sup>. Dialogical and classroom training meetings with professionals from all judicial and regional districts of the State of São Paulo were conducted at the headquarters of the administrative regions of the Judicial Court. The project, which was carried out between August and November in 2013, took place in two stages, with 26 meetings and a total of 156 hours of classroom training for 1,013 judicial practitioners.

An initial survey was conducted on the first stage – the development of Individual Care Plans – with space for suggestions for improving and enhancing work in the justice system and coordination with enforcement agencies and the community. To do that, NECA produced an on-



line tool for data collection with 59 questions (including two open questions) that were answered by the participants and systematized by the project coordination team.

The methodological strategy focused on hearing the professionals' opinions through the initial survey, and on their participation in open discussions and group work during the meetings, where they shared experiences and innovative practices in different Child and Youth Courts in the state. Stimulating the debate allowed professionals to express their ideas, experiences, and perceptions of how the Individual Care Plan in protective measures is managed and monitored, and to discuss actions that impact the effectiveness of judicial decisions.

Delays in solving cases and the resulting “abandonment” of children in care services were cited by work group participants as a decisive factor in justifying many of the legal changes that were made; therefore, the two-year limit was one of the aspects discussed. Both Justice agents and the children themselves are often disappointed by the slow progress of cases, or with the substance of technical assessments and the indicated referrals, particularly when the assistance network is still fragile.

On the other hand, the professionals reflected on the danger of setting and rigidly adhering to the time limit of two years for social and familial reintegration because the impact of the focused intervention on the subject could be lost. There is a risk that the strict application of a general rule will conflict with the uniqueness of individual stories, and be detrimental to the specificity of interventions. When care services are ended too early, the possible adverse consequences include new abandonments, victimization, and unsuccessful adoptions.

This complexity was addressed many times in the training sessions and gained prominence in the experiments that the teams presented in the second stage of the project, when they were invited to submit their work. This was done through a procedure produced by NECA, with a script for recording the presentations, aimed at enhancing the exchange of experiences among the groups.

The data collected indicate improvements in the structure and the operation of networks, in the work of the Judicial Court, in the technical and pedagogical action of institutional care services, and in the process of preparation and monitoring of the Individual Care Plan. The judicial teams recognize the need for ongoing action of the Judiciary in monitoring the compliance of the goals of municipal policies. They also believe that it is possible to make the Individual Care Plans more effective by leveraging actions shared by organizations that are part of the social safety net, suggesting that this may be done through agreements signed across sectors or even through judicial levies, from civil actions taken by the Public Ministry.

### **Major advances**

The main advances identified by the teams can be summarized as follows:

- The Individual Care Plan makes possible the formalization of objectives to be achieved and can improve the quality and development of the care service network. It has become a technical tool for socio-familial integration that enables and extends the guarantee of the rights of children and adolescents in care;
- Recent changes encourage a more humanized perspective, with network teams more aware of the need to understand the real lives of the subjects receiving care;

- The decision of the National Council of Justice to review each case every six months has been a qualitative as well as a quantitative leap, since it requires the involvement of judges and prosecutors in children's lives, greater participation in intersectional relationships, broader dialogue with service networks, visits to residential placements, and listening to children in care. In other words, this decision mandates a more careful consideration of the individuality of children and adolescents removed from parental care;
- The joint elaboration of an Individual Care Plan requires dialogue between judicial interprofessional teams and municipal institutions, bringing the professionals from Children's Courts closer to the teams, care services and Guardianship Counsellors;
- Thanks to the joint elaboration of the Individual Care Plan, data recording has been reformulated, especially in the Regional Courts of the city of São Paulo. There, the technical sectors evaluate and monitor the plan, making possible continuous reviews of cases and individualized care of children, adolescents, and their families;
- Mandatory concentrated hearings are decisive for understanding the competences, and for greater involvement, of the network and family in developing the Individual Care Plan. The preparation of concentrated hearings (for the approval or revision of Individual Care Plans) increased dialogue between network partners and the technical team, and the team was valued as a partner in the process of building the protection network;
- Because of the interdisciplinary action of judicial practitioners with complementary perspectives on the same case, knowledge of local realities is expanded, and there is greater proximity to the institutional network for the resolution of cases and the implementation of Individual Care Plans;
- The new legal norms and the Technical Guidelines (CONANDA, 2009) have brought about an improvement in the professionalism of care services. Most care services now have technical teams for individualized attention, resulting in a decrease in the number of children in care, a reduction of time spent in residence, and an increase in the number of cases of social-familial integration;
- The benefits of working in a network were widely appreciated. The professionals saw a need to find support in fields of knowledge and organizations other than their own, and in coordinating actions that complement each other. The best strategies for coordinating the network are initiatives to conduct regular, systematic, intersectional meetings to stimulate collaboration.

### **Some challenges regarding social and familial integration**

The main challenges identified by the teams can be summarized as follows:

- Recent legal changes and changes in the definition of social care policies have been assimilated very slowly by the intersectional policies of municipalities and, as a consequence, judicial teams adopt very different practices even within the same region or district;
- The elaboration and monitoring of an Individual Care Plan is often not carried out regularly, depending on the routine determined by the jurisdiction's Child and Youth judge, and also on the quality of the intersectional relationships established in the locality;

- The judicial interprofessional teams have different understandings of their roles and how to work in adverse conditions, with a small pool of professionals, and a high demand for care. Difficult cases and a lack of time hinder the teams' efforts to do more in cases of institutional or foster placements;
- Although there is broad recognition of the need and importance of carrying out proper hearings of children and adolescents themselves, and of ensuring the involvement of families in the elaboration of Individual Care Plans, there is no consensus regarding the best strategies or the most opportune time for this inclusion, so as to give voice to the child and family without creating unrealistic expectations or unwarranted fears;
- The actions specified in Individual Care Plans are not always performed effectively, with the risk of undue departure of children and adolescents from the care services and their inevitable reinstitutionalization;
- There is a lack of financial, physical, and material support to the care services and to a public policy of continued training to change the culture of care. Thus there is a risk of ritualizing practices, rather than transforming services as is needed.

The judicial practitioners reported that the challenges they face in answering the needs of children with regard to their planned social and familial reintegration fall into a number of key work areas. The comparison chart below has been prepared from data systematized in the Institutional Relations Special Symposium: Justice System, Public Policies and Shelters, conducted by NECA in São Paulo (NECA, 2006), and the Final Report of the Project Training Meetings (NECA, 2013).

Table 2

*Judiciary technicians' perceptions of the critical components of an effective institutional service aiming at social and familial integration*

2006	2013
Work in network	Work in network
Working with family	Maximum time in family and focus on family reintegration
Information flow	Individual Care Plans (PIA)
Competing competences	Concentrated hearings
Age and specificity of care in residential care services	Qualified/professional hearing of the child and adolescent
Placement of child or adolescent post-residential care	Participation of children and family
Tensions in daily life and human relations	

Source: NECA (2006, 2013).

As can be seen, the perception of the need to work with networks remains; however, the legal changes have inspired new themes, including social and familial inclusion within a given time, mandatory Individual Care Plans, concentrated hearings, and listening to and engaging children, adolescents, and families in this process.

### Conclusions

The existence of advanced legal regulations in accordance with the United Nations Convention on the Rights of the Child (United Nations, 1989) does not in itself ensure that actions taken by local governments are effective in guaranteeing the fundamental right to family and community coexistence. This is especially true in a setting that features a wide range of care service conditions in municipalities of different sizes and different cultures. The fundamental right to family and community coexistence, as homogeneous objectification<sup>14</sup>, defines a formal, normative reference that does not capture the needs dictated by the complex and heterogeneous contexts of each location, nor the specifics of the individual cases.

However, our observations in this article show that the legal changes are an important lever for advancing the humanization of care and ensuring a more nearly adequate socio-familial integration, in spite of all the limitations and challenges still present.

The concentrated hearings mandated by the National Council of Justice bring to the dialogue circle all the involved parties who can contribute to a better decision about the child or adolescent's future, with a shared review of the Individual Care Plan and commitments agreed upon that, once made, become legal obligations. These obligations are designed to address and remove the primary reasons for placements in care by providing the services necessary for family and community coexistence.

Arpini & Silva (2013), in a recent study, confirm the perception that the movement generated by Federal Law 12010 (Presidência da República, 2009) and the Individual Care Plan has raised the importance of the voices of children, adolescents, and family on the public agenda. Social participation is a human right inscribed in UN international treaties. A formal hearing, with each individual's possibilities respected, guarantees the right to be informed, to be heard, and to have one's opinions taken into consideration. The goal is to guarantee each individual's participation in these life decisions, whether in the elaboration of the Individual Care Plan, in the concentrated hearings, or in individual sessions.

Many challenges remain when it comes to grappling with the complex and critical issues that confront the social welfare and protection system in Brazil. One challenge is the necessity of coping flexibly with diverse individual stories. Another is to successfully implement a more participatory and empowering approach to judicial decision-making that ensures the respect and dignity of vulnerable children and families. The integrated theoretical framework crucial to understanding the socio-familial inclusion of children and adolescents must be developed. To create such a framework, more studies of the daily life of care services and families are needed.

It must be acknowledged that significant changes presuppose a slow, complex process of negotiations, adjustments, new understandings, and attitude shifts amongst all involved. There are contextual and political determinations that an action focused on individual cases cannot reach. It is worthwhile, therefore, to focus on two areas: first, improving the formulation and execution of the individual plans; and second, promoting advances in the local care-services structure by means of a political-institutional action with a broader range.

Lastly, it should be remembered that the improvement of care services and collective care networks is central to the struggle for a safe community, and for a society that considers the needs of children in all its social policies and fosters the further implementation of the rights guaranteed to them by the ECA.

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## Endnotes

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<sup>1</sup> The Statute of Children and Adolescents (Federal Law 8069/90) proposes a system of care and a guarantee of rights based on the doctrine of integral protection. It establishes care in the basic social policies (health, education, culture, sport, leisure, housing, and work) and covers social assistance policy of a supplementary nature. Special protective actions for children and adolescents are provided in varying situations of personal and social vulnerability.

<sup>2</sup> Brazilian social security covers “different social contingencies that can reach people in their life cycle, their working career and in situations of insufficient income....Social Assistance is noteworthy, as it is an innovative extension of the non-contributory Social Protection, through the recognition of rights of its members in the legal frameworks of citizenship” (Yazbeck, 2010, p.14). One special type of social protection is the health care service designed for families and individuals in situations of personal and social risk due to neglect; physical, mental, or sexual abuse; use of psychoactive substances; lack of compliance with socio-educational measures; homelessness; and child or youth labour; among others. This special health care service handles cases of medium and high complexity (*Ministério do Desenvolvimento Social e Combate à Fome* [Ministry of Social Development and Fight against Hunger], 2004).

<sup>3</sup> The National Plan for Family and Community Coexistence defines “family” on a broad socio-anthropological basis. “The family can be thought of as a group of people who are united by ties of consanguinity, alliance and affinity. These ties are made up of representations, practices and relationships that involve mutual obligations.” (Presidência da República, 2006, p. 24).

<sup>4</sup> Ethical-political suffering does not have its genesis in individuals but in socially defined inter-subjectivities that are molded in daily life, especially when the pain arises from the social situation of exclusion and feelings of social inferiority. (Sawaia, 2001, p. 104).

<sup>5</sup> Adoption, whether national or international, is irrevocable and gives the adopted child the status of a natural-born child, with the same rights and duties, including inheritance.

<sup>6</sup> Since the enactment of Federal Law 12010 (Presidência da República, 2009) adoption is intended to be an exceptional measure, whose implementation should only occur when the possibilities of return to the birth or extended family, or even the child or adolescent’s significant network, are exhausted.

<sup>7</sup> Applicants who wish to adopt should have been selected and accredited, and be ready to establish an inclusive, loving relationship with the adopted child or adolescent. Applicants must be prepared to combine their needs and desires with those of the adopted child or adolescent. Adoptions must be supervised professionally for a period of time, according to the specifics of the case.

<sup>8</sup> We highlight the following regulations: Federal Law 12010 (Presidência da República, 2009); the Technical Guidance Document: Shelters for Children and Adolescents (CONANDA, 2009); the National Grading of Social Assistance Services (MDS, 2009); and the National Plan for the Protection, Promotion and Defense of the Right of Children to Family and Community Living (PNCFC) (Presidência da República, 2006).

<sup>9</sup> The foster care family falls under the purview of the National Social Assistance (BRAZIL, PNAS, 1004) and is subject to the regulations and rules described in Note 8.

<sup>10</sup> With a decentralized structure regulated by national parameters, Brazilian Social Assistance, as a policy of social security and provision of resources to meet basic needs, is a strategic policy in tackling social exclusion.

<sup>11</sup> Federal Law 12010/2009 modifies Article 101 of the ECA and includes in sections § 4, § 5 and § 6 the requirement to prepare the Individual Care Plan, aiming at family reintegration, except for taking into account the views of the child or adolescent and listening to his or her parents or persons responsible for him or her.

<sup>12</sup> According to Article 131 of the ECA, “The Guardianship Board is a permanent, autonomous, non-jurisdictional body, charged by society to ensure the respect of the rights of children and adolescents, as defined in this Law.” They are community representatives elected to defend the rights of children and adolescents in the municipalities.

<sup>13</sup> The specific protective measures are specified in Article 101 of the ECA: I - transfer to the parent or guardian by disclaimer; II - guidance, support and temporary monitoring; III - compulsory enrollment and attendance in government elementary schools; IV - inclusion in community or government programs of the family, child and adolescent; V - requisition of medical, psychological or psychiatric treatment in a hospital or outpatient setting; VI - Inclusion in government or community assistance program, counselling and treatment of alcoholics and drug addicts; VII - shelter in institutions; VIII - placement in a foster family.

<sup>14</sup> The concept was developed by Agnes Heller in her book *The Theory of Needs in Marx* (1986).